

Public library. A public library organized as a separate entity under a State statute, without power to impose taxes for its operation but whose funds are obtained by certification of a tax rate needed for its operation to the rate-making authority, qualifies for exemption under section 501(c)(3) of the Code.

Advice has been requested whether the nonprofit county library described below is exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

A corporation was separately organized under a State statute to maintain a public library for the people of a particular county. The statute confers upon the library board, its governing body, a limited power to determine the tax rate necessary to support its operations within specified maximum and minimum rates.

The effect of the statute is not to grant the library board the power to impose or levy taxes. Instead, the board submits the tax rate so determined to the county auditor who certifies the tax rate to the county adjustment board in the same manner as other tax rates are certified. All of these taxes are collected by the county treasurer who transmits to the library its share of revenue.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable and educational purposes.

Rev. Rul. 55-319, 1955-1 C.B. 119, holds that a wholly-owned State instrumentality may, under certain circumstances, qualify for exemption from Federal income tax under section 501(c)(3) of the Code. This position is amplified in Rev. Rul. 60-384, 1960-2 C.B. 172, which holds that a wholly-owned instrumentality must be organized and operated exclusively for section 501(c)(3) purposes in order to qualify for exemption under section 501(c)(3). Thus, an organization clothed with regulatory or enforcement powers, or other powers beyond those of an organization described in section 501(c)(3), would not be a clear counterpart of an organization described in section 501(c)(3).

Although the library is wholly-owned by a political subdivision of a State, it is a separate entity and is otherwise a counterpart of an organization exempt from Federal income tax under section 501(c)(3) of the Code. The power regarding the tax rate described above is not a regulatory or enforcement power within the meaning of Rev. Rul. 60-384, since it merely involves the determination, subject to specified limits, of a tax rate necessary to support the library's operation. Therefore, this organization is not considered to be clothed with a power beyond those of an organization described in section 501(c)(3). See Rev. Rul. 67-290, 1967-2 C.B. 183. Compare with Rev. Rul. 74-14, page 125, this Bulletin which holds that the power to issue subpoenas and take proof under oath are regulatory or enforcement powers of

the type considered in Rev. Rul. 60-384.

Accordingly, the organization qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the Income Tax Regulations.